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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,091	09/28/2001	Yu Zheng	PAT-1384	6648

7590

04/19/2004

Raymond Sun  
12420 Woodhall Way  
Tustin, CA 92782

EXAMINER
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FRANCIS, FAYE

ART UNIT	PAPER NUMBER
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3712

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DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/967,091

Applicant(s)

ZHENG, YU

Examiner

Faye Francis

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7, 28 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-7, 28 and 30 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

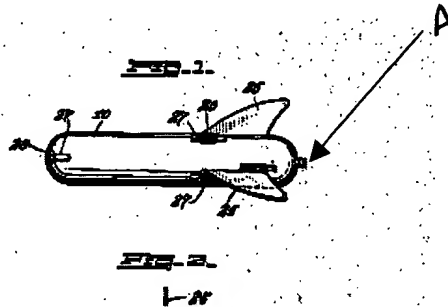
2. Claims 1, 3-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Goldfarb.

Goldfarb discloses in Figs 1-4, an inflatable toy apparatus, comprising: an inflatable elongated body 10 having a length, a gripping piece [nozzle 13 which is inherently capable of being gripped] that is provided along a portion of the length, a nose piece [cork 28] made from a material that is different from that of the elongated body and a plurality of curved tails [fins 16-17 and 19-20] as recited in claims 1 and 4. Additionally, Goldfarb discloses the tails are made from a material that is the same as that of the elongated body [col 2 lines 4-6] as recited in claim 3.

3. Claims 1-2, 4, 6 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Lemelson [2,763,958], hereinafter Lemelson.

Lemelson discloses in Figs 1-2 (also see Figure below wherein the letter A has been added by the examiner), an inflatable toy apparatus, comprising: an inflatable elongated body 10 having a length, a gripping piece [tab 26 which is inherently capable of being gripped] is provided along a portion of the length of the elongated body, a nose piece [weight 28] made from a material that is different from that of the elongated body,

a plurality of curved tails [fins 25] as recited in claims 1 and 4. Also, Lemelson discloses the tails are made from a material that is different from that of the elongated body as recited in claim 2, a tailpiece [pressure-sensitive tape 27] as recited in claim 6 and a nozzle A as recited in claim 28.



***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson in view of Goldfarb. Lemelson is interpreted differently herein than as set forth in paragraph 3.

Lemelson discloses in Figs 1-2 (also see Figure above wherein the letter A has been added by the examiner), an inflatable toy apparatus, comprising: an inflatable elongated body 10 having a length, a gripping piece A [A is inherently capable of being gripped], a nose piece [weight 28] and a plurality of curved tails [fins 25] as recited in

claims 1 and 4. Additionally, Lemelson discloses a tailpiece [pressure-sensitive tape 27] as recited in claim 6.

Lemelson does not disclose that the A [gripping piece] is provided along a portion of the length of the elongated body.

Goldfarb teaches the concept of providing an inflatable aerial toy with a central orifice 14 [gripping piece through which a tube may be inserted for inflating the inflatable aerial toy] along a portion of the length of it's elongated body. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provided device of Lemelson with the central orifice [gripping piece] along the portion of the length of the elongated body as taught by Goldfarb for easy access while inflating the device and for aesthetic reasons.

6. Claims 9 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benson alone, or Benson in view of Goldfarb.

Benson discloses in Figs 1-12, an inflatable toy apparatus, comprising: an inflatable elongated body [balloon 10 and neck 12], a nosepiece 24 and a tail construction/assembly [fins 14 and nozzle 11] that is separate and removable from the elongated body having a hollow cylindrical tube [nozzle 11] that receives the elongated body as recited in claim 9 and a nozzle [mouthpiece tube 15] through which air is introduced into the body as recited in claim 30.

Benson may not disclose that the nosepiece is made from a material that is different from that of the elongated body. However, the nosepiece of Benson does not appear to be of the same material, i.e. inflatable, as it is for holding a parachute [col 2

lines 22-25]. It would have been obvious to make the nosepiece in the device of Benson from a material that is different from the elongated body in order to increase its durability and especially since it appears to be for holding a different item.

Goldfarb teaches that it is conventional to provide an aerial toy, i.e. a missile with a nosepiece [cork 28] that is made from a material that is different from that of the aerial toy's body in order to stabilize the flight path. It would have been obvious to provide the device of Benson with a nosepiece that is made from a material that is different of it's body in order to increase its durability and to follow a fairly accurate flight path.

***Allowable Subject Matter***

7. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments filed 12/22/03 have been fully considered but they are not persuasive.

In response to applicant's argument in page 4, the device of Goldfarb clearly discloses a gripping piece [nozzle 13], which inherently is capable of being gripped by a user.

In response to applicant's argument in the middle of page 4 regarding, that Lemelson does not disclose "a gripping piece that is along a portion of the length of the elongated body": the device of Lemelson clearly shows in Fig 1, a gripping piece [tab 26

which is inherently capable of being gripped] along a portion of the length of the elongated body.

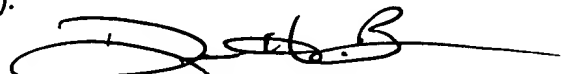
In response to applicant's argument in page 5 regarding claim 9, although the examiner agrees with the applicant that the element 11 in Benson is fixedly attached to the balloon however, this attachment is done through friction [col 3 lines 1-23]. Therefore, the examiner takes the position that although the element 11 in Benson is fixedly attached to the balloon it presumed to be inherently capable of being separated and removed from the balloon.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 703-306-5941. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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